

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KEVIN OTTEY,

Petitioner,

v.

NYC DEPARTMENT OF CORRECTIONS,
LOUIS MOLINA, and PEOPLE OF THE
STATE OF NEW YORK DISTRICT
ATTORNEY OFFICE,

Respondents.

ORDER
23-CV-07828 (HG)

HECTOR GONZALEZ, United States District Judge:

The Court denies Petitioner's motion to dismiss the indictment filed against him by the State of New York in a criminal proceeding pending in the Supreme Court of the State of New York, Kings County. ECF No. 6. The U.S. Supreme Court has held that federal courts may not grant injunctive relief against the prosecution of state criminal cases, or otherwise intervene in those cases, even if a state court defendant alleges that the prosecution against him is unconstitutional, unless that defendant "make[s] a[] showing of bad faith, harassment, or any other unusual circumstance that would call for equitable relief." *Younger v. Harris*, 401 U.S. 37, 54 (1971). Petitioner has not made the required showing, and the Court will not dismiss the indictment against him. *See Singleton v. N.Y. City Police Dep't*, No. 20-cv-9699, 2021 WL 665032, at *4 (S.D.N.Y. Feb. 17, 2021) (denying on *Younger* abstention grounds motion to dismiss indictment filed by plaintiff detained on New York state criminal charges). The Court encourages Petitioner to consult with any attorney retained or appointed to represent him in his state criminal case regarding his rights in that case and the remedies available to him in state court.

Respondent shall address, in its opposition to Petitioner's habeas corpus petition due on December 22, 2023, whether the arguments made in Petitioner's motion state a valid claim for habeas corpus relief pursuant 28 U.S.C. § 2241. The Clerk of Court is respectfully directed to mail a copy of this order to the *pro se* Petitioner.

SO ORDERED.

/s/ Hector Gonzalez
HECTOR GONZALEZ
United States District Judge

Dated: Brooklyn, New York
December 14, 2023